



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 1-25-06

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Paper Number: _____

In re application of
Smalley et al.

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**DECISION ON
PETITION**

Serial No. 10/033,028
Filed: December 28, 2001
For: Composition And Articles Of Manufacture

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed August 22, 2005. The petition requests that the abandonment, for failure to timely respond to the Office Action mailed January 11, 2005, be withdrawn. The petitioner asserts that the Office Action, mailed January 11, 2005 was not received by the applicants. The petitioner has presented evidence including a statement by the petitioner that the Office Action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office Action mailed January 11, 2005 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Office Action would have been posted had it been timely received.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(I).

The evidence presented is sufficient to establish that the Office Action , mailed January 11, 2005, was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office Action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office Action mailed January 11, 2005 was not



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received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Office Action would have been posted had it been timely received. Furthermore, upon review of Office records, no Notice of Abandonment has been sent to the applicant and thus the application is not presently abandoned.

Therefore, the application shall be forwarded to the examiner for prompt remailing of the above noted Office and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ross Spencer Garsson
Winstead, Sechrest & Minick, P.C.
P.O. Box 50784
Dallas, Texas 75201